

HOUSE BILL 2246

By Vaughan

AN ACT to amend Tennessee Code Annotated, Title 4;  
Title 5; Title 6; Title 7; Title 13; Title 65 and Title  
68, relative to development.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1.

(a) The department of economic and community development shall conduct a study of the current infrastructure of utilities operating in this state, including pipelines or transmission lines used to produce or distribute a source of energy such as gas or oil, to determine what improvements to the infrastructure are needed to attract development and investment to this state.

(b) On or before January 1, 2023, the department shall report its findings to the general assembly, along with a list of recommended infrastructure projects. The report may be delivered electronically.

SECTION 2. This act takes effect upon becoming a law, the public welfare requiring it.

Amendment No. \_\_\_\_\_

\_\_\_\_\_  
Signature of Sponsor

<b>FILED</b>
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

**AMEND Senate Bill No. 2077\***

**House Bill No. 2246**

by deleting all language after the enacting clause and substituting:

SECTION 1. Tennessee Code Annotated, Title 7, Chapter 51, is amended by adding the following as a new part:

**7-51-2201. Part definitions.**

As used in this part:

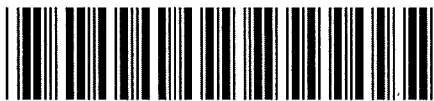
(1) "Distributor" means a party engaged in moving energy commodities, industrial materials, or their derivatives, including the transport and delivery to a retailer or customer;

(2) "Energy" means a resource that is marketed, or that has the potential to be marketed, as a commodity because of the resource's value as a source of power or fuel;

(3) "Energy infrastructure" means the systems or assets, including storage tanks, pipelines, transmission lines, fiber, or related equipment, that are necessary to produce, generate, transmit, or distribute energy to a wholesaler, retailer, distributor, or customer;

(4) "Industrial infrastructure" means the systems or assets, including storage tanks, pipelines, or related equipment, that are necessary to produce, transmit, or distribute industrial materials to a wholesaler, retailer, distributor, or customer;

(5) "Industrial materials":



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(A) Means a basic substance found in its natural, modified, or semi-processed state, or an ingredient, solvent, or other component used as an input to a production process for subsequent modification or transformation into a finished good; and

(B) Includes ammonia, hydrogen, and carbon dioxide;

(6) "Local action" means an ordinance, resolution, regulation, code, requirement, policy, or other action or omission taken, enacted, adopted, or otherwise imposed by a political subdivision of this state;

(7) "Political subdivision" means a municipality; public corporation; body politic; authority; district; metropolitan government; county; agency, department, or board of those entities; or another form of local government;

(8) "Retailer" means a party who markets or sells energy or industrial materials to a customer; and

(9) "Wholesaler" means a party engaging in the bulk purchase and sale of energy products or industrial materials in the wholesale market for the purposes of reselling energy or industrial materials to a retailer.

**7-51-2202. Prohibited policies.**

(a) A political subdivision of this state shall not, arising from or as a result of a local action, restrict, prohibit, or otherwise impair the development and implementation of the types or sources of energy that may be used, delivered, converted, or supplied by the following entities:

(1) A public utility or an electric utility;

(2) An entity that generates, sells, or transmits electrical energy;

(3) A gas utility;

(4) A gas transmission company;

(5) A liquefied petroleum gas dealer, liquefied petroleum gas dispenser, or liquefied petroleum gas cylinder exchange operator; or

(6) Other liquid petroleum transmission, distribution, retail, or storage entities.

(b) A local action of a political subdivision is preempted and void if the local action, directly or indirectly, is or acts as:

(1) A de facto prohibition of the siting, or a restriction, prohibition, or impairment of construction, expansion, or maintenance, of energy, industrial, or related transportation infrastructure within the jurisdictional boundary of a political subdivision. When determining whether a local action results in a de facto prohibition, factors to consider include, but are not limited to, the following:

- (A) A fee imposed;
- (B) An unreasonable timeframe for a ministerial action; and
- (C) The local action's effect on the feasibility of the project;

(2) Regulation or enforcement of safety standards for interstate or intrastate pipeline facilities or interstate or intrastate pipeline transportation as those terms are defined in 49 U.S.C. § 60101;

(3) A moratorium, or a categorical prohibition, of the siting, construction, expansion, or maintenance of energy, industrial, or related transportation infrastructure within the jurisdictional boundary of a political subdivision for a period of time; or

(4) A prohibition or restriction on the ability of a public utility or common carrier, distributor, retailer, wholesaler, or other energy or industrial infrastructure entity to exercise its rights provided by state or federal law, including, but not limited to, those rights related to the siting of energy, industrial, or related infrastructure.

(c) This section does not prevent or preempt:

(1) A board of a political subdivision that owns or operates and directly controls an electric or natural gas utility from promulgating necessary rules, regulations, or policies related to the utility subject to its control;

(2) A local action that is state-authorized, ministerial in nature pertaining to land use, generally applicable to all types of commercial activities, and necessary to provide a public benefit, as long as the local action facilitates to the greatest extent possible the siting, construction, expansion, or maintenance of energy, industrial, or related transportation infrastructure and the exercise of rights provided by the state and federal law by public utilities and common carriers, including, but not limited to, those rights related to the siting of energy, petroleum, or related infrastructure; or

(3) A local action that affects facilities for the collection, conversion, and use of solar energy.

(d) This section does not expand or alter the jurisdiction of a governmental entity charged with oversight of public utilities or electric utilities.

(e) This section does not expand or alter the regulation of wind energy facility siting provided in title 65, chapter 17.

(f) A local action that violates subsection (a) or (b) that existed on or before the effective date of this act is preempted by this part and void.

**7-51-2203. Conflict with federal law.**

If this part conflicts with federal law requirements pertaining to the types of energy sources or industrial materials used, delivered, converted, or supplied by the entities described in § 7-51-2202(a)(1)-(6) to serve customers, then the federal law controls.

SECTION 2. If a provision of this act or the application of a provision of this act to any entity or circumstance is held invalid, the invalidity does not affect other provisions or

applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are declared to be severable.

SECTION 3. The headings in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 4. This act takes effect July 1, 2022, the public welfare requiring it.